

**ERC Talking Points**  
**Inactive Hazardous Sites Program**  
**1/26/12**

The Inactive Hazardous Sites Response **Act was enacted** by the legislature to address properties contaminated with hazardous substances.

This law requires **annual reporting** to the Environmental Review Commission

The IHSRA **requires financially-viable** responsible parties to cleanup these cases.

And it established the **Inactive Hazardous Sites Cleanup Fund** to help address those sites without financially-viable responsible parties.

The sites covered by this law **pose uncontrolled risks to the public** by:

- **direct contact** with the contamination,
- through the **migration of contaminated** groundwater affecting drinking water supplies,
- through contact with contaminated **streams and fish**,
- and through exposure to **contaminated vapors** coming from contaminated soils and groundwater making its way into homes and other buildings.

The **Federal Superfund Program** that addresses hazardous substance contaminated sites at the federal level only looks at the Nation's worst cases and less than 5% are addressed through the Superfund Program, **leaving most** cases to States to address.

**Thus, most states** have cleanup programs for the remainder of cases.

There are currently **3044** Inactive Hazardous sites cataloged

Of this number, **452** have work completed and are assigned "no further action" status

**676** of the cases cataloged are old unlined landfills that operated largely before there were solid and hazardous waste disposal regulations prohibiting what could be disposed in landfills

**These pre-regulatory landfills pose threats from**

- **contaminated groundwater** reaching drinking water wells and
- from **hazardous substance and methane vapors off-gassing** from the waste and contaminated groundwater and then migrating into buildings on or near the landfill thereby **posing health risks** and possible **explosion hazards**

**77%** of these PRLF sites have residences, schools, day cares, parks, churches or drinking water sources on or within 1000 feet of the landfill

**In 2007, SB 1492** established legislation to address these risks.

This legislation established a **state-wide disposal tax** on solid waste.

**50% of the tax** goes to fund the assessment and **mitigation of the hazards** at these pre-regulatory landfills

**37.5% goes to local** governments and **12.5% goes to the Solid Waste Management Trust Fund**

There are provisions in the legislation for the tax to be used to **reimburse waste management companies** that had made LF permit applications that became ineligible due to a change in the landfill permitting requirements that accompanied the bill.

The companies had to make reimbursement **claims by a specific date**.

**Three claims** were made. 2 are settled and paid out. The 3<sup>rd</sup> is in litigation.

The disposal tax went into **effect in July of 2008** and the 1<sup>st</sup> proceeds were **received by DENR in Feb 2009**.

The tax **generates approximately \$9 million** annually for the mitigation of the pre-regulatory landfills. *(to date approx 26.7 million)*

The legislation originally allowed **7% of** the revenue to be used for administrative purposes and staffing to implement the program.

The early receipts were lower than expected and the program **could not be fully staffed.**

In the FY10-11, the Inactive Hazardous Sites Program budget was **cut by \$300,000. (25%)** of the non-PRLF portion of the IHSP).

Legislation **shifted the funding** to the solid waste disposal tax.

The cap on administrative expenses had to be raised **to 13% to support both the \$300,000** portion of the Inactive Hazardous Sites Program Budget and the staff needed to implement the program for addressing the pre-regulatory landfills.

**With these adjustments, 6 staff** have now been hired to implement the pre-regulatory landfill program with **one other** planned.

The program has established **5 contracts** with engineering firms to do the assessment and mitigation of the exposure problems at these sites.

**Four more** contracts are in the works.

The **first steps of this program were to complete locating** all the sites and determining what **immediate exposure risks** existed.

The information existing on these sites was **very limited** in most of the cases.

We **conducted location, use, and receptor** research at each. This work has been **completed**

We then **needed to prioritize** the sites for action.

We developed a **prioritization system** that takes in to account:

- are there drinking water wells in the area,
- how many,
- are any contaminated
- is the property and surrounding area residential or some other sensitive use,
- are there buildings on the landfill
- are there surface water intakes for drinking water in the area
- Is there previous data indicating elevated methane levels at the site which could pose an explosion hazard?

We **completed the data collection, compilation and prioritization.**

The **next step is to conduct assessments** of the sites, to evaluate the particular hazards, working in priority order by risk.

We do make **redevelopment cases a priority**, because we need to get the work done before the use changes and potentially causes exposure or the development makes it difficult to collect samples.

The **first phase of the assessment involves** conducting geophysical work to determine the **footprint of the landfill** and to **survey sensitive environments** that may be present and **sample drinking water** wells in the area.

This is **followed by an investigation** where samples are collected of groundwater, soils, surface water in streams, and vapors above and below ground.

A series of sampling events occur until the extent of contamination is defined

We have completed **46 of the first phase** investigations and **41 of the second phase.**

Once the extent of contamination has been defined, we **then can develop a plan for remedying** the site.

**Due to the size these landfills**, this will rarely involve complete removal of the waste because of the cost.

**Hot spots** of highly contaminated wastes may be removed.

**Remedies for the sites include:**

- **Repair or construction** of a cap to prevent surface water runoff contamination and prevent direct contact,
- **Providing alternate water** supplies to those affected
- **Addressing contaminant vapor** intrusion into buildings by installing air venting systems and other mechanisms
- **Removal of hot spots** of grossly contaminated wastes
- **Placing land use restrictions** to prevent uses that would cause exposure
- **Conducting groundwater remediation** where necessary.

**39 newly discovered sites** screened for PRLF program eligibility in FY10-11

Also in FY10-11, **119 private wells** were sampled around LF sites.

**Alternate water** has been provided at 11 homes at 5 LF sites.

**68 natural gas alarms** as precautionary measures have also been installed in certain buildings.

**Counties and property owners are provided** laboratory results and health risk evaluations by a toxicologist on all contaminated drinking water wells.

**Every county has been notified of the landfills** in their county and we notify them each time there is a sampling event.

SB1492 also allowed that local governments could conduct the sampling assessments at high risk sites and **seek reimbursement** for their expenses.

There have been **5 such cases** that the program has been overseeing and approving the work.

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**With the non-preregulatory landfill portion** of the Inactive Hazardous Sites Program there remain **1916** open cases

The **inventory of sites** continues to grow.

**68 new** sites were discovered this reporting year

We thus must **address these cases in priority** order based on hazard posed.

We are currently able to address **193** priority cases.

We also have **126** lesser priority sites undergoing voluntary cleanup under our **privatized oversight** program known as the Registered Environmental Consultant Program.

Under the REC Program, Division-approved consultants hired by volunteering parties **not only conduct the cleanup actions for their client, but also certify** their actions met the program rules.

This is **in place of state oversight**.

**Staff audit** a portion of the actions to check compliance.

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The Inactive Hazardous Sites **Cleanup Fund** was established to help address sites not having financially-viable responsible parties.

In FY10-11, sampling assessments, remediation of immediate hazards and/or provisions for alternate drinking water were conducted at **14 orphan sites**.

**Approximately \$484K** was spent on those activities this reporting year.

The Cleanup Fund's only **regular source** of income is a portion of the Scrap Tire Tax which it began receiving 2 ½ years ago.

Approximately **\$390K** is received annually from this tax.

**To supplement** this revenue, the program works with the AG's office to file **bankruptcy** claims at contaminated sites.

This revenue is **dedicated** to these cases and **varies** heavily in amounts that can be recovered.

Activities related to **8 bankruptcy** claims involving **21 sites** occurred in FY10-11

As far as numbers of known high risk sites, there are currently **422 sites** having 1 or more drinking water wells with detectable contamination or where wells are within 500 feet of a known source.

About **half of** these sites have responsible parties.

Of this 422, **36 sites have wells exceeding the federal** drinking water limits. These are clearly active priorities and are **being worked on**.

There are **173 sites where residential** areas, not industry, constitute the main part of the site. **56** are additional priority sites not counted in the 422 figure.

And there are sites that are higher priorities due to **surface water drinking water** intakes being close by, and sites being used as **parks, schools and such**.

In addition to the work on the highest priority cases, bankruptcy cases and REC program oversight we are also working on:

- responding to requests for **no further action** certification as called for under law
- responding to immediate chemical spills
- screening **newly reported** sites

Staff also spend about **25% of their time responding** to requests from the public and the press on information on sites.

Toward this end, the program has been working on efforts to try to **convert its records to electronic form** so they are more readily available to the public.